

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of TERESA CONNER and DEPARTMENT OF THE ARMY,
Fort Bliss, TX

*Docket No. 02-14; Submitted on the Record;
Issued April 23, 2002*

DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof in establishing that she sustained a recurrence of disability causally related to her August 13, 1997 employment injury.

Appellant, a 38-year-old personnel clerk, filed a notice of traumatic injury alleging that on August 13, 1997 she fell from a stool injuring her head and back. The medical evidence in support of appellant's claim dated August 13, 1997 noted her history of injury and diagnosed a contusion of the head, back and right arm secondary to the fall. Appellant stopped work on August 13, 1997 and returned to light-duty work on August 20, 1997.

Appellant filed a notice of recurrence of disability on February 8, 2001 alleging that she had continuous head and back pain due to her employment injuries. In a March 30, 2001 letter, the Office of Workers' Compensation Programs requested additional evidence and by decision dated April 30, 2001 denied her claim finding that she failed to submit the necessary medical opinion evidence to establish a causal relationship between her current condition and her 1997 employment injuries.¹

The Board finds that appellant has failed to establish that she sustained a recurrence of disability causally related to her August 13, 1997 employment injury.

Appellant has the burden of establishing by the weight of the substantial, reliable and probative evidence, a causal relationship between her recurrence of disability commencing on and after February 8, 2001 and her August 13, 1997 employment injury.² This burden includes the necessity of furnishing medical evidence from a physician who, on the basis of a complete

¹ Appellant submitted additional new evidence on appeal. As the Office did not consider this evidence in reaching a final decision, the Board will not review it for the first time on appeal. 20 C.F.R. § 501.2(c).

² *Dominic M. DeScala*, 37 ECAB 369, 372 (1986); *Bobby Melton*, 33 ECAB 1305, 1308-09 (1982).

and accurate factual and medical history, concludes that the disabling condition is causally related to employment factors and supports that conclusion with sound medical reasoning.³

In this case, the Office stated that it did not develop appellant's claim, as she did not lose time from work. The Board notes that the contemporaneous medical evidence was sufficient to establish that appellant sustained contusions of the head, back and right arm as a result of her employment injury. In support of her claim for recurrence, appellant submitted a report dated February 2, 2001 from Dr. Anita A. Larson, a general practitioner, who provided an accurate history of injury and reviewed the medical records contained in the case file. She noted appellant's current complaints of lumbosacral and paravertebral back pain. Dr. Larson performed a physical examination and found tight paravertebral muscles, full range of motion and no neurovascular deficits. She diagnosed chronic low back pain -- probably mechanical. In regard to the relationship between appellant's current condition and her accepted employment-related contusions, Dr. Larson noted that appellant's medical records were sketchy but that appellant did have a documented injury in August 1997. She also noted that appellant had lost weight and had a breast reduction as well as a tummy tuck, liposuction and gastric bypass surgery as well as embarking on an exercise program to try to improve her body mechanics. She stated, "I would have a difficult time proving that her problems are not job related."

In response to an inquiry by the Office, Dr. Larson resubmitted her earlier report and added that she did not treat the initial back injury and had no further knowledge of appellant's condition due to the lack of medical records.

Dr. Larson's reports are not sufficient to meet appellant's burden of proof. She did not provide a clear opinion that appellant's current condition was caused or related to her accepted contusion. Furthermore, Dr. Larson did not explain how or why a contusion in 1997 would result in a continuing condition four years later. Due to the lack of rationalized medical opinion evidence, appellant has failed to meet her burden of proof in establishing a recurrence of disability and the Office properly denied her claim.

³ See *Nicolea Brusco*, 33 ECAB 1138, 1140 (1982).

The April 30, 2001 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
April 23, 2002

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member